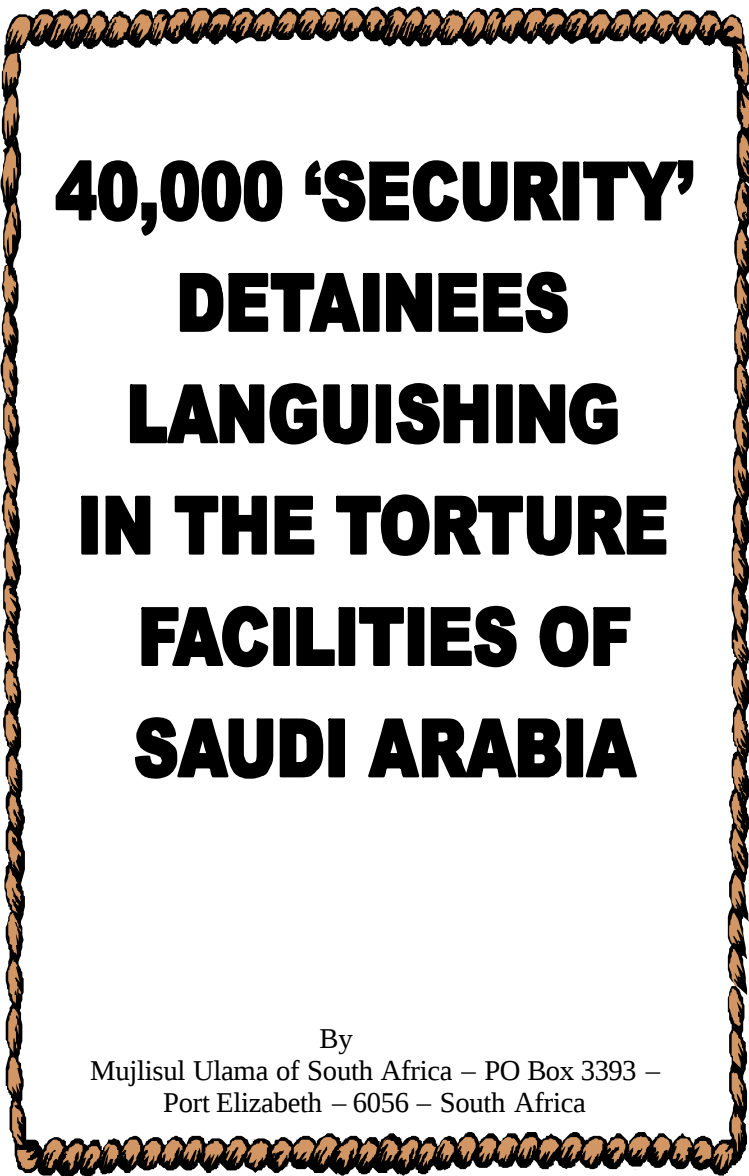




40,000 ‘SECURITY’ DETAINEES LANGUISHING IN THE TORTURE FACILITIES OF SAUDI ARABIA

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THE FOLLOWING IS a reproduction of a letter written to *The Majlis* by a U.K. based Human Rights Organization:

We are writing to you regarding this very important matter. Your views are of crucial importance and hope that you will oblige for the sake of Allah and the oppressed Ulama. We are writing regarding Saudi Arabia’s legal system and their treatment and systematic imprisonment of Ulama and practising Muslims.

Saudi Arabia proclaims that it is governed by the “Shariah” and their judgements and rulings are based purely on “Shariah”. It is estimated that currently Saudi Arabia has over 40,000 “security related” prisoners detained in their prisons. These are all Ulama and practicing Muslims imprisoned simply because they are perceived by the Kingdom as a “security threat” or as people who may “disturb the peace”, among whom some are termed “Takfeeris”. Many have disappeared and many languish in Saudi prisons indefinitely without charge or trial. Some have spent several years in prison without knowing what their crime is. Almost all are subjected to brutal torture and inhumane treatment. On rare occasions where a trial is conducted, it is done in secrecy. Sentences vary between death penalties and prolonged prison terms. Often prisoners are not released several years after expiry of their sentences and continue to languish in Saudi prisons indefinitely.

Some of Saudi Arabia’s “security prisons” are also located within the boundaries of the Haramain. The detention facility in Madinah Al Munawwara which holds approximately 1000 detainees is close enough from the Haram Sharif that the Adhan and Salah of Al Masjid Al

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Nabawi can be heard inside the prison. We have personally visited this facility.

Many non-Muslim Human Rights Organisations have repeatedly highlighted the plight of these Ulama and condemned these injustices. Saudi Arabia has always brushed these criticisms aside and responded to them by suggesting that they (Saudis) govern by the “Shariah” and therefore non-Muslim countries or organisations have no right to criticise their constitution or religious matters. Unfortunately, there are no similar effective Muslim Human Rights Organisations who can counter the Saudi response with Islamic authority based on Qur’an and Hadith. The voices of Non-Muslim organisations are simply dismissed as “anti-Islamic” because they lack this basis.

The Saudi government therefore feel secure from any criticisms of their injustices as these Human Rights Organisations do not have the support of the prominent Ulama around the world. We feel that it is important that Saudi Arabia’s imposturous use of the “Shariah” to disguise their un-Islamic actions is exposed. This is particularly so when their actions are in fact in sharp contrast with the “Shariah” by which they profess to govern. The Saudi government is not only committing injustices in the name of Islam, but also defaming the Shariah, Islam and the Muslims around the world.

Any Ulama-e-Haq in the Arabian Peninsula who speak out are arrested, tortured and are imprisoned indefinitely or are disappeared forever. This has been happening for several decades and the Saudi rulers feel particularly secure due to the silence of our Ulama around the world. They are getting away with their crimes under the guise of being “Custodians of the Holy Mosques” and torch bearers of “Islam” and “Shariah”.

We feel that until scholars from outside Saudi Arabia condemn them for their injustices, these injustices in the name of Islam will continue to occur unabated; the

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innocent Ulama in Saudi jails will languish in prisons and more and more will be imprisoned. We feel that the silence of our Ulama against the injustices of Saudi Arabia is aiding the Saudi government to carry on with what they are doing and this is tantamount to complicity.

We are in the process of writing to several prominent Muftis and Muslim Organisations around the world to secure their comments and views to support our campaign for the release of innocent Ulama in Saudi prisons. We hope that you will help us in this noble campaign. Allah SWT will Insha-Allah reward you immensely and you will earn the Duaa of the oppressed Ulama in Saudi jails who have no one except Allah to help them.

Over the past few years, Human Rights Watch (<http://www.hrw.org>), Al Karama (<http://en.alkarama.org>) & Amnesty International (<http://www.amnesty.org>) have produced comprehensive reports on the injustices practiced in Saudi Arabia. These reports can be downloaded or read at the following internet links. It is sad that we have abandoned the flag of “Human Rights” that our beloved Prophet (Sallallahu Allaihi Wasallam) handed down to his Ummah. We have abandoned it and allowed others to take it.

"ASSAULTING HUMAN RIGHTS IN THE NAME OF COUNTER-TERRORISM"

http://www.amnesty.org.uk/uploads/documents/doc_19561.pdf.

"HUMAN RIGHTS AND SAUDI ARABIA’S COUNTERTERRORISM RESPONSE"

http://www.hrw.org/sites/default/files/reports/saudiara_bia0809web.pdf

"UNIVERSAL PERIODIC REVIEW"

http://en.alkarama.org/index.php?option=com_docman&task=doc_download&gid=87&Itemid=71

AUDIO CLIP FROM BBC:
http://news.bbc.co.uk/today/hi/today/newsid_8162000/8162404.stm

VIDEO CLIP FROM DEMOCRACYNOW:

<http://www.geloo.net/AmnestyReport22July2009.flv>

IN THIS RESPECT YOUR ESTEEMED VIEWS AND COMMENTS ARE REQUIRED IN PARTICULAR ON THE FOLLOWING POINTS:

1. The legitimacy of arrest on suspicion and the legitimacy of intelligence gathering methods in Saudi Arabia where citizens are employed as informers to gather intelligence and inform on fellow Muslim citizens for money. It is estimated that 1 in 3 is an intelligence agent.
2. The lawfulness of detention without charge and what are the acceptable remand periods in Islam.
3. Arbitrary detention and incommunicado detention in Islam.
4. Indefinite detention without charge in Islam.
5. The use of torture, both mental and physical, to obtain evidence or confessions.
6. The legitimacy of evidence or confessions obtained through mental and physical torture.
7. The legitimacy of trial processes being conducted in secrecy and subsequent denial of written records of court proceedings to the accused or anyone else.
8. The legitimacy of judgements based on “confessions” that are the result of coercion.
9. The law regarding revocation of such “confessions” by the accused before the judge during of trial.
10. The correct Islamic court practice with regards to an allegation of torture by the accused.
11. On whom lies the onus to investigate an allegation of torture.
12. The legitimacy and purpose of imprisonment in Islam.
13. The legitimacy of the following conditions of imprisonment in Saudi Arabia:
 - a. Detention in cells with no natural light and open to

harsh cold and hot temperatures (even in prisons in Madina Al Munawwarah).

- b. Small solitary cells with no provision to enable prisoners to keep clean for prayers.
- c. Individual isolation or solitary confinement as a means of causing severe mental repercussion on prisoners to make them confess.
- d. Small group isolation and the severe mental repercussions on prisoners.
- e. Denial of any type of education to prisoners.
- f. Denial of written communication to the outside world.
- g. Denial of pen and paper. (Prisoners are not allowed to have a pen and paper throughout their imprisonment).
- h. Preventing prisoners from offering communal prayers particularly on occasions such as Salat ul Jumuah, Taraweeh and Eid.
- i. Preventing detainees from attending funerals of family members or relatives.
- j. Compelling “security detainees” to undergo behaviour and ideology training programmes called “Al Munasaha”. This course is designed to change their thoughts and beliefs to accept everything that the Saudi Government is doing in the name of Islam. (We are in the process of obtaining full details of this course and will forward these to you when received).

14. Comment on the definitions of these popular “Islamic” criminal charges in Saudi Arabia such as:

- a. ‘Hirabah’ (Engagement in unlawful conflict with a legitimate government)
- b. ‘Ifsaad fil Ardh’ (Spreading vice on earth).
- c. Whether peaceful political or religious dissent is a punishable crime in Islam.
- d. Whether ‘Takfeer’ is a crime in Islam on which the Islamic courts have jurisdiction to adjudicate and punish.

We look forward to your comments on the above and any other assistance which you may be able to offer. May

Allah be pleased with you, Ameen.

In response we have commented as follows:

1) Whether it is legitimate for the Saudi government to arrest people based on suspicion or based on intelligence provided by Saudi citizens working as informers to gather intelligence and inform on fellow Muslim citizens for money.

Response to (1):

While intelligence gathering by an Islamic government is perfectly permissible, the arrest, and jailing, especially without fair trial, on suspicion is never permissible. The Nusoos of the Qur'aan and Ahaadith prohibiting baseless suspicion and punishing without Shar'i evidence, are numerous. Imprisoning people on the basis of suspicion which develops in consequence of information and even misinformation provided by mercenary informers lured by money, is most certainly Haraam. It is zulm of the first degree. There is absolutely no justification and no grounds in the Shariah for the perpetration of this Haraam zulm by the Saudi regime.

If the authorities have valid grounds for suspecting a man of subversive activities, then it devolves on them to correctly formulate charges which would be tenable in the Shariah, and produce the accused in front of the Qaadhi who should administer justice according to the Shariah.

The Saudi regime does not resort to Shar'i procedures because it is fully aware that those who are apprehended, jailed and tortured by the regime are not guilty of any crime in terms of the Shariah. Their 'crime' is in terms of Saudi political expediencies. They are arrested and denied a fair trial, imprisoned and tortured simply because they give practical expression to Allah's command of Amr Bil Ma'roof Nahy Anil Munkar. They abide by Rasulullah's command, "The noblest Jihad is to state the truth in the presence of a tyrannical ruler." They are not apprehended for any subversive activity. The apprehension on

suspicion is the consequence of them proclaiming Islamic truths which are extremely unpalatable to the Saudi regime.

The payment of money for spying on citizens is also Haraam. The fact that 1 in every three Saudis is a paid informer to spy on Muslims, illustrates the corruption of the Saudi spy system. Every Tom, Dick and Harry is recruited to spy on people. It is quite obvious that the monetary aspect will induce many unscrupulous informers to fabricate falsehood which they will attribute to those Ulama who proclaim the Haqq.

2) What is the lawfulness of detention without charge and what are the acceptable remand periods in Islam?

Response to (2):

The absence of a charge is proof for lack of Shar'i evidence. When there is no evidence to charge a person, detaining him is Haraam. Detention without charge is in fact proof for the innocence of the detainee. The regime lacks grounds for detention even in terms of its own Haraam draconian laws, hence there is no charge. Islam does not tolerate such zulm. The Shariah does not prescribe any limit for 'remand periods'.

However, a person may not be detained without valid Shar'i grounds.

Detention without trial and remand upon remand are all Kuffaar concepts. In fact, a man may be arrested only if there is sufficient evidence for a prima facie case to ensure that he is brought to the Islamic court the moment he is arrested or as soon as possible after his arrest. He may not be arrested and robbed of his freedom for the purpose of interrogation which is a cruel Kuffaar system of zulm which Saudi Arabia has acquired from the U.S.A.

Insaan is by nature hurr (a free man). His liberty may not be robbed and expunged on the basis of suspicion. Furthermore, Islam prohibits muthlah (torture). Confessions extracted under duress and torture are not

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valid in a Shar'i court of law. (Note: While the dictionaries translate 'torture' with the word 'uqubah', we prefer 'muthlah' because 'uqubah' is too mild a term for brutal cruelty and torture.)

3) What is the Islamic ruling regarding Arbitrary detention and incommunicado detention.

Response to (3):

According to Islam, the Khalifah is the supreme head of the Islamic Empire. He has the right to make arbitrary arrests on the basis of true facts and grounds which establish the guilt of the accused, and which will be sustainable evidence in an Islamic Court. Arbitrary arrests because of the person's proclamation of Shar'i truths which are unpalatable to the ruling regime or inconsistent with the un-Islamic political expediencies of the rulers are Haraam.

History testifies to such Haraam arbitrary arrests perpetrated against innumerable Ulama-e-Haqq by oppressive Sultans and Khulafa. Great personalities such as the Aimmah-e-Mujtahideen and illustrious Auliya were all subjected to arbitrary arrest, detention without trial, flogging and torture in general. Their only 'crime' was proclamation of the Haqq of the Deen or their association with previous rulers whom the current rulers have deposed. Such arbitrary detention and incommunicado detention are zulm and Haraam.

4) What is the Islamic ruling regarding indefinite detention without charge.

Response to (4):

This is an act of zulm of monstrous proportions. To rob a free person, especially a Muslim, moreover an Aalim of Haqq, of the freedom Allah Ta'ala has bestowed to him, and to subject him to the cruel conditions and unjust perpetration of prison life, is intolerable in Islam. The blood, life, reputation and property of a Muslim are all

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sacred in Islam. Detention without charge is abundant proof for the innocence of the detainee. It is Islamically unacceptable to perpetrate such horrendous zulm on innocent people.

5) What is the Islamic rule regarding the use of torture, both mental and physical, to obtain evidence or confessions.

Response to (5):

These horrendous methods are of the cruel systems of Kuffaar governments. Once Rasulullah (sallallahu alayhi wasallam) was informed through the medium of Wahi of a person who was on his way to pass a secret document to the enemy. Rasulullah (sallallahu alayhi wasallam) despatched Hadhrat Ali (radhiyallahu anhu) to apprehend the person. After questioning the spy and confiscating the document, Rasulullah (sallallahu alayhi wasallam) accepted the pleas and apologies of the traitor and pardoned him. There was no imprisonment, no detention without trial and no torture whatsoever.

Torture is zulm of the worst kind. The Nusoos prohibiting torture are many, emphatic and explicit. Islam never permits these brutal methods of Kuffaar political systems. Islam commands kindness to even animals. When they are slaughtered, it should be humane and the animal must be treated kindly.

6) According to Islam, what is the legitimacy of evidence or confessions obtained through mental and physical torture.

Response to (6):

Such confession is not a valid Iqraar in terms of the Shariah. The kutub of Fiqh and Ahaadith explicitly state the illegitimacy and invalidity of such confessions.

7) What is the legitimacy of trial processes being conducted in secrecy and subsequent denial of written

records of court proceedings to the accused or anyone else.

Response to (7):

This system is clearly un-Islamic and in conflict with the judicial system of Islam. The Islamic systems of trial and punishment are public institutions. This is a well-established fact. There is no secrecy in these institutions. The secret system has been acquired by Saudi Arabia from the western Kuffaar. In fact, this type of illegitimate system is illegal even in terms of the western Kuffaar code of justice. The U.S.A. operates such secret detention and torture facilities in a number of countries. There is no room in Islam for such zulm.

8) What is the legitimacy of judgments based on “confessions” that are the result of coercion.

Response to (8):

The illegitimacy of such judgments is axiomatic in view of the invalidity of the confessions extracted by torture. Qaadhis/Judges who convict people on the basis of such baseless and invalid confessions are denizens of Jahannum.

9) What is the ruling or law regarding revocation of such “confessions” by the accused before the judge during trial.

Response to (9):

In the first instance, the accusers (the state/police) will not be able to Islamically prove in an Islamic court that the accused had made the alleged ‘confession’. There are no independent, aadil witnesses to testify. The confession will simply not be entertained by the Qaadhi if the accused claims that it was extracted under torture. Furthermore, the qaraa-in are in favour of the accused. Torture in secret detention facilities has become a norm. It constitutes part of the Urf of life in this era. The zaalim governmental authorities are notorious for such zulm,

hence no Allah-fearing Qaadhi will convict a man on the basis of a confession presented by the accusers, and which is rejected by the accused.

10) What is the correct Islamic practice with regards to an allegation of torture by the accused.

Response to (10):

It will be difficult or almost impossible for the accused to prove that he was tortured. It will be only his word which he will not be able to corroborate with witnesses. Yes, if there are eye witnesses to testify, the torture could be proved. Besides his inability to prove that he was tortured, the accusers will have to explain why they had arrested him; why they had held him incommunicado; why they had deprived his family from communicating with him; why they had robbed him of his freedom for so long, etc. Since the accusers will have no valid evidence acceptable in an Islamic court, they will become the accused and be arraigned for a variety of charges.

11) According to Islamic laws on whom lies the onus to investigate an allegation of torture.

Response to (11):

This is the Islamic responsibility of every Muslim who is aware of the torture. Proclaiming the Haqq is an integral constituent of Amr Bil Ma’roof Nahy Anil Munkar. It is the right of every Muslim, and the obligation devolves on him proportionate to his authority and ability. Rasulullah (sallallahu alayhi wasallam) said: “The noblest Jihad is to proclaim the Haqq in the presence of a tyrannical ruler.”

In the current context of this era the Waajib obligation of attending to this issue devolves on Muslim Human Rights Organizations. These bodies have been formed specifically to act as watchdogs and to render assistance to the oppressed and tortured Muslims in particular, and to even non-Muslims in general. Furthermore, these organizations are better poised and have better means of

access to the evil facilities, and to attend to and address these injustices. On the contrary, individuals have no means at their disposal to fight this state-sponsored zulm. However, the Human Rights organizations are shirking their duty by doing far too little.

It is a known fact that it is almost impossible for the Ulama in Saudi Arabia to publicly speak on this issue and investigate the allegations of torture. The moment they initiate any such process, they will be thrown into the dungeons of torture. Furthermore, the Ulama today lack the moral and spiritual fibre of the Ulama of bygone times. That 40,000 Ulama languish in Saudi torture facilities speaks volumes for our contention.

Ulama outside Saudi Arabia do have the ability to speak and publicize these issues. But, we have to say that you will hardly find any Ulama nowadays to proclaim the Haqq. The Ulama today come within the scope of the following Hadith: “Soon will there dawn an age when the worst of the people under the canopy of the sky will be the Ulama. Fitnah will emerge from them and the fitnah will rebound on them.”

You should therefore not expect assistance or even moral support from the Ulama of our age.

12) What is the legitimacy and purpose of imprisonment in Islam?

Response to (12):

In Islam imprisonment is an exceptional institution. Islamic justice is immediate, whether it is flogging or execution. In rare cases, exile and imprisonment are resorted to. Such punishment is left to the discretion of the Qaadhi. But nowadays the court judges are the employees of the state and they lack in entirety in Taqwa. There is no hope to achieve justice or Islamic justice in the courts of Saudi Arabia. The courts there are extensions of the Saudi regime.

13) What is the legitimacy of the following conditions of imprisonment in Saudi Arabia:

- (a) Detention in cells with no natural light and open to harsh cold and hot temperatures (even in prisons in Madina Al Munawwarah).
- (b) Small solitary cells with no provision to enable prisoners to keep clean for prayers.
- (c) Individual isolation or solitary confinement as a means of causing severe mental repercussion on prisoners to make them confess.
- (d) Small group isolation and the severe mental repercussions on prisoners.
- (e) Denial of any type of education to prisoners.
- (f) Denial of written communication to the outside world.
- (g) Denial of pen and paper. (Prisoners are not allowed to have a pen and paper throughout their imprisonment).
- (h) Preventing prisoners from offering communal prayers particularly on occasions such as Salat ul Jumuah, Taraweeh and Eid.
- (i) Preventing detainees from attending funerals of family members or relatives.
- (j) Compelling “security detainees” to undergo behaviour and ideology training programmes called “Al Munasaha”. This course is designed to change their thoughts and beliefs to accept everything that the Saudi Government is doing in the name of Islam.

Response to (13):

In the list of acts mentioned in your question No. 13, (a), (b), (c), (d), (f), (g), and (j) are Haraam. With regard to (e), namely, “Denial of any type of education to prisoners”, while the state may not deny prisoners education, it (the state) is not obliged to educate them beyond the essentials of the Deen, i.e. such Waajib ta’leem which is necessary for the day to day activities of

the Muslim.

Regarding (f), namely, preventing prisoners from Jumuah and Eid Salaat, it should be noted that if the prisoners have been legitimately incarcerated in terms of the Shariah, then the state has the right to prevent them from leaving the prison confines to attend Jumuah and Eid Salaat. Furthermore, Jumuah and Eid Salaat are not valid in a prison. The state has no right of preventing them from performing the five daily Salaat with Jamaat inside the prison.

Regarding (i), namely preventing prisoners from attending funerals, the state does have this right if the persons are legitimately incarcerated.

Regarding (j), namely, the 'Al Munasaha' course, if it is a legitimate programme of Deeni ta'leem, the state has the right (see condition below) to compel the inmates to listen to the talks for their own Islaah (moral reformation).

The above mentioned rights of the state will apply in a just system where the prisoners have been legitimately incarcerated. Obviously, the Saudi state has no such rights because the incarceration of the detainees in the first instance is illegitimate and unjust. They are held incommunicado for no crimes. We believe that the Saudi state is extremely oppressive and treats the detainees with brutality. Zulm has no rights. Oppression and injustice have to be eliminated. Any act which is in conflict with the Shariah is zulm.

We still have not received the details of the 'Al Munasaha' course which you have mentioned in your letter dated 14 September 2010.

14) Please comment on the definitions of these popular "Islamic" criminal charges in Saudi Arabia such as:

(a) 'Hirabah' (Engagement in unlawful conflict with a legitimate government)

(b) 'Ifsaad fil Ardh' (Spreading vice on earth).

(c) Whether peaceful political or religious dissent is a punishable crime in Islam.

(d) Whether 'Takfeer' is a crime in Islam on which the Islamic courts have jurisdiction to adjudicate and punish.

Response to (14):

(a) Hiraabah: Engaging in unlawful conflict with a legitimate government is unlawful according to the Shariah. However, executing the obligation of Amr Bil Ma'roof is not Hiraabah. Engagement in unlawful and subversive activity to unseat or destroy the legitimate government is Hiraabah.

(b) Ifsaad fil Ardh: This means to spread anarchy and mischief in the land whether it be against the government or the citizens. It is a punishable offence in terms of the Shariah. Amr Bil Ma'roof which goes against the grain of the rulers and proclaiming the Haqq are never to be categorized as Ifsaad fil Ardh.

(c) Religious or political dissent, the objective of which is changing the divine Shariah is a punishable crime. Valid difference of opinion based on the proofs of the Shariah are not crimes, e.g. the differences of the Math-habs or the differences of the Muftis in every age - differences based of Shar'i dalaal. Amr Bil Ma'roof and to proclaim the Haqq are not to be confused with such dissent which is criminal.

(d) Takfeer means to declare someone to be a Kaafir. This is a valid tenet of Islam. If someone commits kufr, Takfeer of that person will be valid. Islamic courts have the jurisdiction in this matter. They have the right to adjudicate and punish crimes of kufr.